

**UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

**CLAYTON BENNETT, II**

§

**Plaintiff,**

§

**v.**

§

**Civil Action No. \_\_\_\_\_**

§

§

**JAMES RIVER INSURANCE  
COMPANY**

§

§

**Defendant.**

§

**DEFENDANT JAMES RIVER INSURANCE COMPANY'S NOTICE OF REMOVAL**

TO THE HONORABLE COURT:

Pursuant to 28 U.S.C. §§ 1332, 1441, and 1446(a), and Local Rule 81, Defendant James River Insurance Company (“James River”) files this Notice of Removal and respectfully shows that diversity subject-matter jurisdiction exists and removal is timely.

**I. Removal is Timely**

On April 25, 2017, Plaintiff Clayton Bennett II, filed his Original Petition in state court in the case styled *Clayton Bennett, II v. James River Insurance Company*, Cause No. DC-17-04787, in the 298th Judicial District Court of Dallas County, Texas. *See* Ex. C.1, Pl.’s Original Pet. However, James River was not properly served until June 22, 2017. *See* Exhibit C.8, Affidavit of Service.

James Rivers files this Notice of Removal within the thirty-day time period required by 28 U.S.C. § 1446(b). Accordingly, this Notice of Removal is timely.

**II. Diversity of Citizenship**

Removal is proper under 28 U.S.C. § 1332(a)(1) because there is currently a complete

diversity of citizenship over Plaintiff's claim.

For purposes of diversity of citizenship, Bennett is a citizen of the State of Texas, being an individual residing in Desoto, Texas.<sup>1</sup> Bennett is not a citizen of Ohio or Virginia.

James River is a citizen of the State of Ohio and the Commonwealth of Virginia, being an insurance company formed in Ohio and having its principal place of business at 6641 West Broad Street, Suite 300, Richmond, Virginia. *See Hertz Corp. v. Friend*, 559 U.S. 77, 80 (2010). James River is not a citizen of Texas.

Based on the foregoing, the parties are completely diverse within the meaning of 28 U.S.C. §1332.

### **III. Venue is Proper**

Venue in this district is proper in the United States District Court for the Northern District of Texas, Dallas Division, under 28 U.S.C. §§ 124(a)(1) and 1446(a) in that the Northern District of Texas, Dallas Division encompasses Dallas County, Texas and is "the district and division embracing the place where such action is pending."

### **IV. Amount in Controversy**

Plaintiff states that he seeks monetary relief "of over \$100,000, but not more than \$200,000." Exhibit C.5, p. 1. Therefore, the amount in controversy exceeds the \$75,000 threshold required to invoke this Court's jurisdiction. 28 U.S.C. § 1332(a); *see St. Paul Reinsurance Co., Ltd. v. Greenberg*, 134 F.3d 1250, 1253 (5th Cir. 1998) (noting the district court examines the complaint to determine whether it is facially apparent that the claim exceeds the jurisdictional minimum); *see also KVOS, Inc. v. Associated Press*, 299 U.S. 269, 277 (1936) (holding allegation in pleading is sufficient to establish amount in controversy).

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<sup>1</sup> See Exhibit 1 – First Amended Original Petition.

**V. The Removal is Procedurally Correct**

Pursuant to 28 U.S.C. §1446(a) and Local Rule 81, attached hereto are:

- a. an index of all documents that clearly identifies each document and indicates the date the document was filed in the state court action (*see Exhibit A*);
- b. a copy of the docket sheet in the state court action (*see Exhibit B*);
- c. each document filed in the state court action (*see Exhibits C:1-15*); and
- d. a separately signed certificate of interested persons that complies with Local Rule 3.1(c) (*see Exhibit D*).

Pursuant to Local Rule 81, James River is simultaneously filing a complete civil coversheet and a supplemental coversheet.

Pursuant to 28 U.S.C. §1446(d), promptly after James River files this Notice of Removal, written notice of the filing will be given to Plaintiff Bennett, the adverse party.

Pursuant to 28 U.S.C. § 1446(d), promptly after James River files this Notice of Removal, a true copy will be filed with the Clerk of the Dallas County District Court, the state court from which this action was removed.

**VI. Relief Requested**

This notice was filed timely. The amount in controversy exceeds \$75,000. Complete diversity of citizenship exists as to Plaintiff and Defendant. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1332. Accordingly, the action is properly removed pursuant to 28 U.S.C. § 1441.

Defendant respectfully request that the United States District Court for the Northern District of Texas, Dallas Division, file the Notice of Removal, assume jurisdiction of this lawsuit, and issue all such further orders and processes as may be necessary.

Respectfully submitted,

/s/ Lisa A. Songy

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**ATTORNEYS FOR DEFENDANT**  
**JAMES RIVER INSURANCE COMPANY**

#### **CERTIFICATE OF SERVICE**

I hereby certify that on the 20th day of July 2017, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will electronically send notification to the following counsel of record.

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/s/ Lisa. A. Songy

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